

# MEMO

**TO:** Energy and Environment Committee (EEC)  
**FROM:** Molly Hoffman, Senior Regional Planner, Environmental Planning, hoffman@scag.ca.gov  
**DATE:** November 6, 2003  
**SUBJECT:** Air Quality Impacts of Proposed North American Free Trade Agreement (NAFTA) Regulations Regarding the Operation of Mexican-Domiciled Carriers in the US

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**Recommended Action:** Receive and File

## **Summary:**

Mexican-domiciled vehicles, particularly diesel trucks and buses, could increase pollution in the SCAG region – a region which currently has the worst air quality in the nation and has not been able to identify the needed emission reductions to bring the region into attainment with the National Ambient Air Quality Standards (NAAQS). On December 18, 2001, President Bush lifted the moratorium, previously imposed by Congress, that limited operation of Mexican-domiciled vehicles to the immediate U.S./Mexico border region. In response to a lawsuit claiming an inadequate environmental assessment of this action, the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation (DOT) is in the process of preparing a Programmatic Environmental Impact Statement (PEIS). FMCSA is currently taking comments on the Notice of Public Scoping on the PEIS. SCAG staff will be providing comments to FMCSA regarding the potential conformity implications for the SCAG region.

## **Background:**

At least 30,000 Mexican-domiciled diesel trucks may enter the United States annually as a result of legislation signed by President Bush on December 18, 2001, which lifted the restriction that limits operation of vehicles to the immediate U.S./Mexico border region. The emissions from Mexican-domiciled vehicles may increase the frequency and severity of air quality violations and delay attainment of federal and state air quality standards for many years into the future throughout California. Non-attainment areas along the U.S./Mexico border may be acutely affected.

This action is likely to have serious conformity implications. SCAG is required by Federal law to ensure that the Regional Transportation Plan (RTP) is consistent with and conforms to the State Implementation Plan (SIP). Mobile sources account for over half of the emissions in the Region. Attainment and conformity are becoming increasingly difficult to demonstrate due to the lack of needed control strategies, growth and other factors.

Mexican vehicles are likely to emit greater quantities of harmful pollutants than U.S. vehicles as they are not required to meet as stringent emissions controls as U.S. vehicles, are not equipped with comparable emissions control technologies, are older and do not use comparable fuels. According to a recent study<sup>1</sup>,

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<sup>1</sup> Critical Review of "Safety Oversight for Mexico-Domiciled Commercial Motor Carriers, Final Programmatic Environmental Assessment," Prepared by John A. Volpe Transportation Systems Center, report by Sierra Research, April 16, 2002.

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Mexican trucks on the average generate 150% more Nitrogen Oxides (NOx) and 200% more PM10 than U.S. vehicles. Allowing higher-emitting Mexican-domiciled vehicles, that do not have to comply with the same emission standards as comparable U.S.-domiciled vehicles, to travel throughout the U.S. may undercut both California and Federal air quality standards.

Additionally, Mexican-domiciled trucks have substantially higher diesel particulate emissions than U.S. trucks. Diesel particulate has been identified as a carcinogen by the California Air Resources Board (CARB). The Multiple Air Toxics Exposure Study II (MATES-II), which is a landmark urban toxics monitoring and evaluation study conducted by the SCAQMD for the South Coast Air Basin in November 1999, showed that approximately 70% of the total human health risk associated with exposure to toxic air contaminants emanated from diesel particulate.

The FMCSA, DOT is responsible for ensuring the safe operation of commercial motor vehicles within the United States. This includes issuing regulations to permit Mexican domiciled trucks and buses operating in the United States pursuant to the North American Free Trade Agreement (NAFTA) under conditions ensuring public safety.

The FMSCA had originally proposed rules pursuant to the NAFTA and in anticipation of the President lifting the moratorium. Before finalizing the rules, FMSCA conducted a Programmatic Environmental Assessment (PEA) and found the rules would not have a significant impact on the environment and also concluded that a more detailed review or PEIS was not required. As a result, a group of labor, industry and environmental organizations filed a lawsuit in the United States Court of Appeals for the Ninth Circuit, arguing that a proper environmental analysis was not conducted. The Court of Appeals ruled in favor of the plaintiffs and has required the FMSCA to conduct a detailed environmental analysis in the form of a PEIS as well as General Conformity Evaluation (GCE) pursuant to the Clean Air Act of 1990.

FMSCA has released a Notice of Public Scoping and is currently taking comments on the environmental issues and topics which are appropriate for inclusion in the PEIS and GCE. In addition to seeking public comment, FMSCA plans to hold a series of interagency meetings and meetings for the general public to provide further opportunity to submit comments regarding the scope of the PEIS and GCE. The time and location of these meetings will be made available at the project website [www.fmcsa.dot.gov/NAFTA/EIS](http://www.fmcsa.dot.gov/NAFTA/EIS). SCAG staff will be providing comments to FMSCA regarding the potential conformity implications for the SCAG region.

It is important that the PEIS evaluate the attainment and transportation conformity implications for the SCAG region. Failure to come into compliance with NAAQS by the required deadlines and to maintain compliance can lead to the imposition of economic and highway sanctions by the Federal government. In addition, failure to conform to the SIP may result in a conformity lapse, which could potentially result in the loss of billions of dollars of Federal highway funds for the SCAG region. The increase in emissions from Mexican-domiciled vehicles could hinder the Region's ability to achieve its goals and require the adoption of even more costly measures to control domestic emissions than would otherwise be necessary.

